IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1758 OF 2003

IN

SUIT NO.4888 OF 2000

Shri Sayed Rehman Haji Abdullah Khan ..Plaintiff.

V/s.

Shri Kasam Subhan Belim ..Defendant.

AND

Smt.Zaitoon Taherali Nalwala ..Applicant.

Ms.Lambey i/b. M/s. Lambay & Co. for Applicant.
Mr.R.A. Shaikh for plaintiff.

CORAM : J.P.DEVADHAR, J.

DATED : 8TH DECEMBER, 2004.

P.C. :-

. This chamber summons is taken out by the applicant for being impleaded as party defendant to the suit and certain other reliefs.

2. Mr. Shaikh, the learned counsel for the plaintiff opposes the claim of the applicant.

3. The plaintiff, the defendant and one

Tahirbhai Hasanally Nalwala were three co-tenants in respect of Shop No.2 in Karanjia Building, ground floor, Mumbai- 400 007. By a conducting agreement dated 23rd March, 1999 the said three co-tenants decided to give the aforesaid shop premises to the defendant on conducting basis. As per the said conducting agreement, the defendant was to pay to the plaintiff as well as to the said Tahirbhai Nalwala conducting charges as more particularly set out in the conducting agreement dated 23/3/1999. Since the defendant failed to pay the conducting charges, the plaintiff filed the above suit for recovery of conducting charges. On a Notice of Motion No.2465 of 2000 taken out by the plaintiff, this Court passed an order on 3/10/2002 directing the defendant to deposit the amount in this Court as more particularly set out in the said order dated 3/10/2002.

4. The applicant who is the wife of Tahirbhai H. Nalwala, a co-tenant, has taken out the present chamber summons for being impleaded as defendant with a view to recover the conducting charges due to Tahirbhai H. Nalwala under the conducting agreement dated 23/3/1999.

5. Although the reliefs claimed by the plaintiff

as well as the applicant arise out of the same conducting agreement dated 23/3/1999, the claim of the applicant cannot be accepted because, in the suit filed by the plaintiff no relief is claimed against the applicant and if the suit is decreed, the right of the applicant is in no way affected. If the defendant wants to enforce her right under the conducting agreement dated 23/3/1999, she can initiate such proceeding as is permissible in law. The applicant cannot be said to be a necessary or proper party to the suit. It cannot be said that the applicant has any interest in the suit.

6. In this view of the matter, I am of the opinion that the chamber summons is devoid of any merit.

7. Accordingly, the chamber summons is dismissed with no order as to costs.

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